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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,961	08/21/2003	Jae Seung Lee	1594.1287	7591

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER

WILKENS, JANET MARIE

ART UNIT PAPER NUMBER

3637

DATE MAILED: 09/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
10/644,961	LEE ET AL.	
Examiner	Art Unit	
Janet M. Wilkens	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-28 is/are allowed.
- 6) ☒ Claim(s) 1-23, 29, 31, 32, 37, 39-57, 61 and 62 is/are rejected.
- 7) ☒ Claim(s) 30,33-36,38 and 58-60 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/21/03 & 12/6/04</u> | 6) <input type="checkbox"/> Other: ____ |

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

(Namely, it is improper to have the phrase "the present invention" in the abstract.)

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-23, 29, 31, 39-57, 61 and 62 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of copending Application No. 10/385,566. Although the conflicting

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claims are not identical, they are not patentably distinct from each other because both the instant and copending applications teach a cabinet insertable into a recess of a wall, the cabinet comprising: an outer casing and an integrated single inner casing. The inner casing includes a partition wall having a partition wall structure/hot pipe, a partition wall structure/ magnetic support member and a sealing member provided between the support member and inner casing. The inner casing and outer casing also include front flanges which have a gap there between. Between the inner and outer casings is inter-casing structure, e.g. a magnetic member, a pipe, a seal, etc.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10, 15 and 60 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 10, the scope of the claim is unclear. Previously, a cabinet and its features was the subject of the invention; however, in claim 10, a refrigerator in a recessed wall is claimed. Furthermore, it is unclear whether or not the cabinet and refrigerator are the same structure. For claim 15, "the at least one partition wall" lacks antecedent basis. For claim 60, "the support panel" lacks antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 11-20, 29, 31, 39-43, 45, 49, 50, 55-57 and 62 are rejected under 35 U.S.C. 102(b) as being anticipated by Franck. Franck teaches a cabinet (Fig. 1) comprising: an outer casing (15) and an integrated single inner casing (L). The inner casing includes a partition wall (19) having a partition wall structure/hot pipe (22) located behind a front portion of the partition, a partition wall structure/ magnetic support member (20) supporting the pipe and being located behind the front portion of the partition and a sealing member (18) provided between the support member and inner casing. The inner casing and outer casing also includes front flanges (see Figs. 2 and 6; the outer casing flange being of a metal/"magnetic" material and including plural bends, the rear portion thereof providing a front support for the pipe) which inherently would have a small gap there between. Between the inner and outer casings is an inter-casing structure (insulation 18, "sealing" clip 24 and hot pipe 22). As for the method claim, since Franck teaches the limitations found in the claim, the method step would inherently be provided for. Note: limitations found in intended use/"for" statements have not been given any weight in the claims.

Claims 7-9, 11, 12, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Vismara. Vismara teaches a cabinet (Fig. 4) comprising: an outer casing

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(6A) and an integrated single inner casing (7A). The inner casing includes a front flange (see Fig. 5) in cooperation with a cabinet chassis/outer casing support flange (20) having a stop flange (front portion of 20) with a magnetic material (21) therein and a bent part (rear flange of 20). Between the inner and outer casings is an inter-casing structure (5A).

Claims 7-9, 11-13, 15-18, 20, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Mandel. Mandel teaches a cabinet (Fig. 1) comprising: an outer metal (magnetic) casing (10) and an integrated single inner casing (12). The inner casing includes a front flange (14) in cooperation with a cabinet chassis/inter-casing structure/sealing member (20) and an outer casing doubly bent support flange (16,18,30a,30b). The chassis has a stop flange (22a,22b) with a magnetic material (28) therein.

Claims 32 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Rand et al. Rand teaches a cabinet (Fig. 2) comprising: an outer casing (12), a step upper portion (152,154,164), a cover housing (16), an integrated single inner casing (34) and an intermediate chassis (22).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vismara in view of the disclosed prior art. As stated above, Vismara teaches the limitations of claim 7, including a cabinet having a chassis with a bent part. For claim 10, Vismara fails to teach that the cabinet is specifically located in a recess of a wall. In the prior art figure (Fig. 1) of the instant application, the use of recessed refrigerators is shown. It would have been obvious to one of ordinary skill in the art at the time of the invention to place the refrigerator of Vismara in any of a number of locations, including in a recess of a wall, depending on the intended use of the refrigerator cabinet, space availability/limitations in the room where the cabinet is to be placed, aesthetic reasons, personal preferences, etc. Note: when placed in the recess, the bent part will inherently help cover the gap between the cabinet and wall.

Allowable Subject Matter

Claims 24-28 are allowed. (The allowable subject matter for claim 24 being the cabinet comprised of an outer casing and an integrated single inner casing defining two storage compartments with a partition wall there between. The partition wall, in the gap between the storage compartments, includes a partition wall structure adjacent a front end surface of the partition wall, a support member adjacent to and supporting the partition wall structure, and a support panel supporting the support member.)

Claims 30, 33-36, 38 and 58-60 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

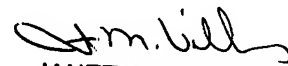
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkens
September 1, 2005


JANET M. WILKENS
PRIMARY EXAMINER
Atu3(3)